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Congress of the United States

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June 4, 1999

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The Honorable Janice Lachance
Director
U.S. Office of Personnel Management
1900 E Street, N.W.
Washington, D.C. 20415

Dear Director Lachance:

It has been brought to the Committee's attention that OPM may soon issue a regulation detailing requirements for the Military Retirees' FEHB Coverage Demonstration Project ("demonstration project"). The Committee is particularly concerned with matters that have been brought to our attention concerning OPM's plans for implementing the statutory requirement of a separate risk pool for military beneficiaries.

Our understanding is that OPM is considering two options. The first is to require carriers to create a separate reserve for military retirees participating in the program. Under the second alternative, OPM would use the unused portion of administrative reserves to cushion any losses incurred by carriers in the demonstration project, but not necessarily in proportion to the carriers' total premiums for a year. We believe that neither of these alternatives is consistent with law.

Clearly, the proposal to require carriers to maintain separate reserves is not consistent with the law establishing the demonstration project. The statute states that OPM, "shall require health benefits plans under chapter 89 of title 5 that participate in the demonstration project to maintain a separate risk pool **for purposes of establishing premium rates** for eligible beneficiaries who enroll in such a plan in accordance with this section." 10 U.S.C. § 1108(h)(1) (emphasis added). Were OPM to require a separate reserve for military retirees, they would effectively not be participating in FEHB, nor receiving the benefits of such participation.

The purpose of the demonstration project is to determine whether the long term participation of military retirees is feasible. To do so, military retirees must be able to participate under the same circumstances as other enrollees. The statutory language and intent is very clear that a separate risk pool is required only for the purposes of establishing premium rates and not for establishing separate reserves. We view this

statutory language as analogous to the current manner in which separate risk pools for purposes of establishing premium rates are maintained for self-only and self-and-family enrollments without requiring separate reserves for each category.

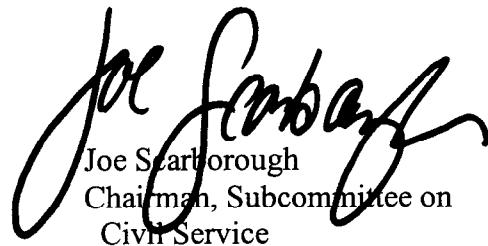
Likewise, we do not believe that OPM may legally use the administrative reserve as a general reserve fund available without limitation to any carrier who suffers a loss in the demonstration project. If administrative reserves that are not used to defray OPM's own expenses are to be distributed, they must be allocated to the contingency reserves of the various carriers in accordance with section 8909(b) of title 5. That statute requires such unused funds to be credited to the carriers based upon their relative premium income for the year.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, reading "Dan Burton". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Dan Burton
Chairman

A handwritten signature in black ink, reading "Joe Scarborough". The signature is highly stylized and cursive, with a large, looping "J" and "S".

Joe Scarborough
Chairman, Subcommittee on
Civil Service